HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2007 OF 2006.

Smt. Indirabai Krishnarao Karekar. Petitioner.

Versus.

Rajendra K. Karekar & Anr. ..Respondents.

Shri. S. C. Prabhu for the Petitioners.

CORAM: S.B.MHASE, J.

DATE : MARCH 27, 2006.

P.C.

1. Heard learned counsel for the petitioner. The respondent no.1 - the original plaintiff has filed Regular Civil Suit No. 270 of 2003 in the Court of the Civil Judge, Senior Division, Kolhapur seeking relief that the sale-deed dated 18.2.2000 shown to have been exeucted by the plaintiff is not binding on the plaintiff - respondent no.1 since it is not executed by the plaintiff - respondent no.1, but somebody dummy was placed to execute the said sale-deed. The respondent no.2 is the original defendant, brother of the respondent no.1. Admittedly, the property was standing in the name of both, the plaintiff and the defendant to the extent of 1/2 share each. Thus, the 1/2 share is shown to have been purchased by the other brother of the respondent

no.2 - original defendant and the said transaction is under challenge.

2. The application - Exhibit 25 was filed by the present petitioner who is the mother of both the respondents to implead herself as a party. She claimed that the total property involved in the suit is her property. Thus, she claims that she is the real owner of the property and the respondents are the ostensible owners of the property. Thus, it is to be noted that the dispute raised by the present petitioner is a distinct and separate than the dispute between the respondent no.1 and respondent no.2 who are parties to the suit. Therefore, the application-Exhibit 25 is rightly rejected since she is not allowed to join as a party as the decree passed in this suit will not be binding as aganst her. She will be entitled to file a separate suit as against the respondents if she is desirous to claim the property. Therefore, no interference is called for. In the result, Writ petition is rejected.

(S.B.MHASE, J.)